

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

_____	)	
UNITED STATES OF AMERICA, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 2:07CV262
	)	
JUPITER ALUMINUM CORPORATION,	)	
	)	
Defendant.	)	
_____	)	

**STIPULATION AND ORDER OF CONFIDENTIALITY**

The undersigned counsel for the United States of America ("United States"), and for Defendant Jupiter Aluminum Corporation ("Jupiter"), hereby agree as follows:

1. This Stipulation and Order of Confidentiality ("Stipulation and Order") governs all written and oral communications, including all conversations, correspondence, and other exchanges of documents, information, and materials ("communications"), between representatives of the United States and Jupiter, on or after February 22, 2008, constituting or reflecting disclosures of financial information made by Jupiter and its sole shareholder, Dietrich Gross, in connection with settlement discussions in this case.

2. All such communications shall be kept confidential among the parties to this Agreement, their legal counsel, the mediators, the Magistrate Judge, and any expert consultants employed by a party to this Stipulation and Order. All such communications shall not be disclosed by any means to any other person or entity with the exception that the United States may verbally share financial information and provide written memoranda prepared by its consultants to the other parties to this litigation, provided that none of the underlying financial

documents are provided. Copies of all tax returns and financial statements provided by Jupiter pursuant to this protective order shall be returned or destroyed within 60 days after the later of: (1) the termination of settlement negotiations; or (2) the conclusion of the plaintiffs' need for the tax returns and financial statements to assist in their analysis of Jupiter's financial condition, to support an appealable decision based upon the information contained in the tax returns and financial statements, or to support any other decision or action. However, the terms of this Agreement shall not be construed to require the United States to violate the terms of the federal Freedom of Information Act, 5 U.S.C. § 552.

3. All such communications are subject to Federal Rule of Evidence 408 in connection with any further or subsequent litigation between the United States and the Defendant regarding the subject of this litigation.

4. The provisions of this Stipulation and Order shall not be construed as restricting the discretion of the Magistrate Judge to make further orders with respect to the disclosure of Jupiter's financial materials or information under Federal Rule of Civil Procedure 16.

5. The terms of this Stipulation and Order shall continue to be binding upon the parties to it notwithstanding the termination of settlement negotiations, whether by the initiation of litigation, the execution of a settlement agreement, or any other means.

6. The provisions of this Stipulation and Order shall not be construed as restricting the right of the United States to obtain information pursuant to Section 114 of the Clean Air Act, 42 U.S.C. § 7414, or through discovery under the Federal Rules of Civil Procedure, or from using information obtained through such information requests or discovery in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

7. This Stipulation and Order contains the entire agreement among the parties, and no statement, promise or inducement made by any party to this Stipulation and Order that is not set forth in this Stipulation and Order shall be valid or binding. This Stipulation and Order may not be enlarged, modified, or altered except in a writing signed by the parties or by further Order of the Court.

Dated: December 30, 2008

FOR THE UNITED STATES OF AMERICA  
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Environment and Natural Resources Division  
United States Department of Justice

*s/Michael J. Zoeller*

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SO ORDERED This 22nd day of January 2009:

*/s/ Andrew P. Rodovich*  
United States Magistrate Judge